

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15153 of Frank and Eva Vibert, as amended pursuant to 11 DCMR 3107.2, for a variance to allow an addition to the existing nonconforming structure which now exceeds the lot occupancy requirements [Paragraphs 2001.3(a)] for a fourth floor addition to an existing nonconforming flat in an R-5-D District at premises 1014 - 22nd Street, N.W., (Square 53, Lot 16).

HEARING DATE:           October 18, 1989  
DECISION DATE:         November 1, 1989

**Findings of Facts:**

1. The property is located on the west side of 22nd Street between K and L Streets and is known as premises 1014 - 22nd Street, N.W. It is zoned R-5-D.

2. The site is generally rectangular in shape with a frontage of 17.89 feet along 22nd Street and a depth of approximately 49 feet. The site has a lot area of 864.61 square feet.

3. The site is currently improved with a two-unit, three-story brick row dwelling. The existing building was constructed in approximately 1921 and presently exceeds the maximum 75 percent lot occupancy by 70.73 square feet or 8.18 percent.

4. The area surrounding the subject site is developed with a mixture of building types and uses including older rowhouses, apartment buildings, small commercial establishments, restaurants, large office buildings, hotels and institutional uses. The George Washington Hospital and University campus are located south of Washington Circle approximately one block south of the site.

5. The applicant proposes to construct an addition to an existing fourth story penthouse structure to provide studio space for pottery work. The addition, as originally proposed, would contain approximately 425 square feet of gross floor area.

6. The R-5-D District permits matter-of-right residential development including single-family dwellings, flats and apartments to a maximum height of 90 feet, a maximum Floor Area Ratio (FAR) of 6.0 for apartment buildings and 5.0 for other structures, a maximum lot occupancy of 75 percent, and a minimum rear yard of twelve feet. The lot occupancy of the existing structure is 719.19 or 83.18 percent. The FAR of the existing development is 2.5 or 2,147.57 square feet. The existing rear yard measures 9.44 square feet.

7. The subject structure is at the northern end of a group of similar row dwellings extending south toward Washington Circle. The subject lot is slightly smaller than the remaining lots in this group of dwellings because the northwest corner has been cut off to accommodate an adjacent property to the rear which fronts on New Hampshire Avenue.

8. The applicant amended the plans for the proposed addition at the public hearing. The proposed revision would result in a 2'8" set back of the addition from the rear wall of the existing dwelling. The proposed revision would eliminate the need for a variance from Sub-section 2001.3(c) in that the existing nonconforming rear yard would not be increased or extended by the proposed addition. The revised proposal would result in an addition of approximately 371 square feet.

9. The applicant's architect testified that the proposed addition would have little impact on light air and view in that it will be located several feet behind a triangular, roof shaped parapet at the front of the structure and will be set back from the rear of the structure. In addition, the architect testified that very few of the structures abutting the rear of the site have windows on the walls most likely to be affected by the proposed addition.

10. The applicant's architect testified that the construction of the site in 1921 in excess of the lot occupancy permitted at the present time creates a practical difficulty upon the owner in that even though the proposed addition conforms to the height, FAR, and rear yard requirements of the R-5-D District, no addition can be built at this point in time because the structure exceeds the currently permitted lot occupancy by 70.73 square feet or 8.18 percent.

11. The Office of Planning (OP), by memorandum dated October 11, 1989, recommended that the application be denied. The OP was of the opinion that the proposed addition would negatively impact abutting properties in terms of light, air and environmental quality and that the increased structural density is excessive with respect to the general density of development in the immediate area. The OP was further of the opinion that the applicant had not met the requisite burden of proof.

12. The Board left the record open at the end of the public hearing to allow the OP an opportunity to review and respond to the revised plans submitted by the applicant.

13. By memorandum dated October 24, 1989, the OP maintained its original recommendation to deny the application. The OP remained of the opinion that the project is excessive with respect to the general density of the existing structures surrounding the

subject property. The OP was further of the opinion that the applicant had not demonstrated that a practical difficulty was present in this case.

14. By correspondence dated October 31, 1989, the applicant submitted further revised plans in response to the OP's recommendation. The newly revised plans reduce the size of the proposed addition to 335 square feet with a five foot setback from the rear of the existing structure. In response to the OP's recommendation, the applicant's representative argued that the construction of the property in 1921 in excess of the lot occupancy currently allowed by the Zoning Regulations results in a practical difficulty upon the owner in that the owner is precluded from constructing any addition to the property, even though the proposed addition conforms with the use and area requirements currently applicable to the zoning district in which the property is located.

15. Advisory Neighborhood Commission (ANC) 2A did not make an official recommendation regarding the application. The record does contain letters from two Single Member District Commissioners in opposition to the application.

16. There was no opposition to the application present at the public hearing. The record contains one letter in opposition to the application from the owner of property at 1001 New Hampshire Avenue.

#### CONCLUSIONS OF LAW AND OPINION:

Based on the foregoing Findings of Fact and evidence of record, the Board concludes that the applicant is seeking an area variance, the granting of which requires proof through probative evidence of an exceptional or extraordinary situation or condition of the property which creates a practical difficulty upon the owner. The Board concludes that the applicant has failed to meet the requisite burden of proof. The subject site is one of a row of similarly sized and developed lots.

Further, the Board concludes that has demonstrated no practical difficulty which would result from the strict application of the Zoning Regulations. The Board further concludes that the variance may not be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map. Accordingly, it is **ORDERED** that the application is hereby **DENIED**.

VOTE: 3-0 (Paula L. Jewell, William F. McIntosh and Charles R. Norris to deny; Carrie L. Thornhill not present, not voting).

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BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

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FINAL DATE OF ORDER:

MAY 13 1991

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

15153Order/SS/bhs

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



BZA APPLICATION NO. 15153

As Executive Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that on MAY 13 1991 a copy of the order entered on that date in this matter was mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

James W. Ritter, Architect  
705 Kint Street  
Alexandria, Virginia 22314

Frank & Eva Vibert  
1014 - 22nd Street, N.W.  
Washington, D.C. 20037

Edward T. Kelly, Chairperson  
Advisory Neighborhood Commission 2-A  
1920 G Street, N.W., #100  
Washington, D.C. 20006

A handwritten signature in dark ink, appearing to read "E. Curry", is written over a horizontal line.

EDWARD L. CURRY  
Executive Director

DATE: MAY 13 1991

15153Att/bhs